

AMENDED IN SENATE MARCH 29, 2006

SENATE BILL

No. 1349

Introduced by Senator Soto

February 17, 2006

~~An act to amend Section 57053 of the Health and Safety Code relating to environmental protection. An act to amend Sections 597b and 597j of, and to repeal and add Section 597c of, the Penal Code, relating to animal fighting exhibitions.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1349, as amended, Soto. ~~Consolidated permits repairs. Animal fighting exhibitions.~~

Existing law generally prohibits persons from causing or permitting specified animals to engage in fighting, and prohibits owning or training specified animals for those purposes. Existing law provides that these offenses are misdemeanors with various penalties, and that subsequent violations of these provisions are misdemeanors with additional specified penalties.

This bill would increase the penalties for the misdemeanors and would provide that subsequent violations of these provisions shall be misdemeanors or felonies with prescribed penalties. The bill would make related legislative findings.

By changing the definition of existing crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law authorizes a responsible party to request a permit assistance center operated by office of the Secretary for Environmental Protection to designate a consolidated permit agency for a repair or maintenance project, subject to specified requirements regulating the repair and maintenance of commercial and industrial facilities or structures.~~

~~This bill would make a technical, nonsubstantive change in those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 *SECTION 1. The Legislature finds and declares the*
2 *following:*

3 *(a) Cockfighting has played a significant role in the spread of*
4 *avian influenza throughout Southeast Asia and other parts of the*
5 *world. It is estimated that a worldwide outbreak of avian*
6 *influenza could kill up to 150 million people. In a 2004 study of*
7 *the avian flu outbreak in Thailand, the United States Centers for*
8 *Disease Control and Prevention (CDC) concluded that illegal*
9 *transportation and cockfighting may have worsened the highly*
10 *pathogenic avian influenza (HPAI) situation. According to the*
11 *World Health Organization, infected fighting cocks may have*
12 *caused at least eight confirmed human cases of avian influenza*
13 *in Thailand and Vietnam since the beginning of 2004.*

14 *(b) The presence of cockfighting in California makes the state*
15 *vulnerable to an outbreak of avian flu. In late 2002 and early*
16 *2003, cockfighting played a major role in the spread of Exotic*
17 *Newcastle Disease (END) throughout Southern California. By*
18 *the time the state was able to get that virus under control, END*
19 *had devastated much of California's egg and poultry industry.*
20 *More than 3.5 million birds died or were euthanized. END cost*
21 *the United States taxpayers \$200 million to eradicate. It cost the*
22 *poultry industry millions more in lost overseas exports as it*
23 *spread across the southwestern United States.*

24 *(c) By encouraging cockfighters from other states to come to*
25 *California, the state's current penalties on cockfighting have*

1 *made California more vulnerable to an outbreak of the avian flu.*
 2 *Arizona, Nevada, and Oregon all have felony-level penalties for*
 3 *cockfighting, making California, with its simple*
 4 *misdemeanor-level penalties, a regional refuge for illegal*
 5 *cockfighting activity.*

6 *(d) The cost of an outbreak of avian flu in California would far*
 7 *surpass the cost of enacting felony-level penalties against*
 8 *cockfighting. An avian flu outbreak that occurred during 1983*
 9 *and 1984 in the northeastern United States took two years to*
 10 *control and resulted in the destruction of more than 17 million*
 11 *birds at a cost of nearly \$65 million. This outbreak also caused*
 12 *retail egg prices to increase by more than 30 percent.*

13 *(e) It is therefore the intent of the Legislature in enacting this*
 14 *act to put penalties in place that deter cockfighting and thereby*
 15 *diminish risks to California's public health, safety and legitimate*
 16 *multi-million dollar poultry and egg industries.*

17 *SEC. 2. Section 597b of the Penal Code is amended to read:*

18 *597b. (a) Except as provided in ~~subdivision~~ subdivisions (b)*
 19 *and (c), any person who, for amusement or gain, causes any bull,*
 20 *bear, or other animal, not including any dog, to fight with like*
 21 *kind of animal or creature, or causes any animal, including any*
 22 *dog, to fight with a different kind of animal or creature, or with*
 23 *any human being; or who, for amusement or gain, worries or*
 24 *injures any bull, bear, dog, or other animal, or causes any bull,*
 25 *bear, or other animal, not including any dog, to worry or injure*
 26 *each other; ~~and, or any person who permits the same to be done~~*
 27 *on any premises under his or her charge or control; ~~and, or any~~*
 28 *person who aids, abets, ~~or is present at the fighting or worrying~~*
 29 *of an animal or creature, ~~as a spectator,~~ is guilty of a*
 30 *misdemeanor punishable by imprisonment in a county jail for a*
 31 *period not to exceed one year, by a fine not to exceed five*
 32 *thousand dollars (\$5,000), or by both that imprisonment and*
 33 *fine.*

34 *(b) ~~Notwithstanding subdivision (a), any~~ Any person who, for*
 35 *amusement or gain, causes any cock to fight with another cock or*
 36 *with a different kind of animal or creature or with any human*
 37 *being; or who, for amusement or gain, worries or injures any*
 38 *cock, or causes any cock to worry or injure another animal; and*
 39 *any person who permits the same to be done on any premises*
 40 *under his or her charge or control, and any person who aids or*

1 abets the fighting or worrying of any cock is guilty of a
2 misdemeanor punishable by imprisonment in a county jail for a
3 period not to exceed one year, *or* by a fine not to exceed five
4 thousand dollars (\$5,000), or by both that imprisonment and fine.

5 (c) A second or subsequent conviction of this section, ~~Section~~
6 ~~597e, or Section 597j~~ is a misdemeanor *or a felony* punishable by
7 imprisonment in a county jail for a period not to exceed one year
8 *or the state prison for 16 months, two, or three years*, by a fine
9 not to exceed twenty-five thousand dollars (\$25,000), or by both
10 that imprisonment and fine, ~~except in unusual circumstances~~
11 ~~where the interests of justice would be better served by the~~
12 ~~imposition of a lesser sentence.~~

13 (d) For the purposes of this section, aiding and abetting a
14 violation of this section shall consist of something more than
15 merely being present or a spectator at a place where a violation is
16 occurring.

17 *SEC. 3. Section 597c of the Penal Code is repealed.*

18 ~~597e. (a) Except as provided in subdivision (b), whoever~~
19 ~~owns, possesses, keeps, or trains any animal with the intent that~~
20 ~~the animal shall be engaged in an exhibition of fighting; or is~~
21 ~~present at any place, building, or tenement where preparations~~
22 ~~are being made for an exhibition of the fighting of animals with~~
23 ~~the intent to be present at that exhibition; or is present at that~~
24 ~~exhibition, is guilty of a misdemeanor.~~

25 ~~(b) Notwithstanding subdivision (a), whoever owns, possesses,~~
26 ~~keeps, or trains any cock or other bird with the intent that the~~
27 ~~cock or other bird shall be engaged in an exhibition of fighting is~~
28 ~~guilty of a crime punishable by imprisonment in a county jail for~~
29 ~~a period not to exceed one year, by a fine not to exceed five~~
30 ~~thousand dollars (\$5,000), or by both that imprisonment and fine.~~

31 ~~(c) A second or subsequent conviction of this section, Section~~
32 ~~597b, or Section 597j is a misdemeanor punishable by~~
33 ~~imprisonment in a county jail for a period not to exceed one year,~~
34 ~~by a fine not to exceed twenty-five thousand dollars (\$25,000), or~~
35 ~~by both that imprisonment and fine, except in unusual~~
36 ~~circumstances where the interests of justice would be better~~
37 ~~served by the imposition of a lesser sentence.~~

38 ~~(d) This section shall not apply to an exhibition of fighting of~~
39 ~~a dog with another dog.~~

40 *SEC. 4. Section 597c is added to the Penal Code, to read:*

1 597c. Any person who is knowingly present as a spectator at
2 any place, building, or tenement for an exhibition of animal
3 fighting, or who is knowingly present at that exhibition or is
4 knowingly present where preparations are being made for the
5 acts described in subdivision (a) or (b) of Section 597b, is guilty
6 of a misdemeanor.

7 SEC. 5. Section 597j of the Penal Code is amended to read:

8 597j. (a) Any person who owns, possesses, keeps, or trains
9 any bird, cock, or other animal with the intent that it be used or
10 engaged by himself or herself, by his or her vendee, or by any
11 other person in an exhibition of fighting as described in Section
12 597b is guilty of a misdemeanor punishable by imprisonment in
13 a county jail for a period not to exceed one year, by a fine not to
14 exceed five thousand dollars (\$5,000), or by both that
15 imprisonment and fine.

16 (b) This section shall not apply to an exhibition of fighting of
17 a dog with another dog.

18 (c) A second or subsequent conviction of this section, ~~Section~~
19 ~~597b, or Section 597e~~ is a misdemeanor *or a felony* punishable
20 by imprisonment in a county jail for a period not to exceed one
21 year *or the state prison for 16 months, two, or three years*, by a
22 fine not to exceed twenty-five thousand dollars (\$25,000), or by
23 both that imprisonment and fine, ~~except in unusual circumstances~~
24 ~~where the interests of justice would be better served by the~~
25 ~~imposition of a lesser sentence.~~

26 SEC. 6. *No reimbursement is required by this act pursuant to*
27 *Section 6 of Article XIII B of the California Constitution because*
28 *the only costs that may be incurred by a local agency or school*
29 *district will be incurred because this act creates a new crime or*
30 *infraction, eliminates a crime or infraction, or changes the*
31 *penalty for a crime or infraction, within the meaning of Section*
32 *17556 of the Government Code, or changes the definition of a*
33 *crime within the meaning of Section 6 of Article XIII B of the*
34 *California Constitution.*

35 ~~SECTION 1. Section 57053 of the Health and Safety Code is~~
36 ~~amended to read:~~

37 ~~57053. (a) Any responsible party may request the office to~~
38 ~~designate a consolidated permit agency for a repair or~~
39 ~~maintenance project to administer the processing and issuance of~~
40 ~~a consolidated permit for the repair or maintenance project~~

1 subject to this division. The office is not authorized to act
2 pursuant to this chapter in the absence of a request by a
3 responsible party. The office shall designate a consolidated
4 permit agency within 30 days from the date that the request was
5 received.

6 (b) A responsible party that requests the designation of a
7 consolidated permit agency shall provide the office with a
8 description of the repair or maintenance project, a preliminary
9 list of the repair or maintenance project permits that the repair or
10 maintenance project may require, the identity of any public
11 agency that has been designated the lead agency for the repair or
12 maintenance project pursuant to Chapter 4.5 (commencing with
13 Section 65920) of Division 1 of Title 7 of the Government Code
14 or Division 13 (commencing with Section 21000) of the Public
15 Resources Code, and the identity of the participating permit
16 agencies. The office may request any information from the
17 responsible party that is needed to make the designation under
18 subdivision (a), and may convene a scoping meeting of the likely
19 consolidated permit agency and participating permit agencies to
20 make that designation.

21 (c) In those cases where a public agency is the lead agency for
22 purposes of Chapter 4.5 (commencing with Section 65920) of
23 Division 1 of Title 7 of the Government Code or Division 13
24 (commencing with Section 21000) of the Public Resources Code,
25 that agency shall be the consolidated permit agency. In other
26 cases, the following factors shall be considered in determining
27 which public agency has the greatest overall jurisdiction over the
28 repair or maintenance project:

29 (1) The type of facility or structure that is the subject of the
30 proposed repair or maintenance project.

31 (2) The nature of the threat that a failure to repair and maintain
32 the structure or facility poses to public health or safety or to the
33 environment, including the environmental medium that may be
34 impacted by a failure to repair and maintain the structure or
35 facility.

36 (3) The environmental and human health and safety concerns
37 that should be considered in properly carrying out the repair or
38 maintenance project.

39 (4) The statutory and regulatory standards applicable to the
40 repair or maintenance project.

1 ~~(d) The consolidated permit agency shall serve as the main~~
2 ~~point of contact for the responsible party with regard to the~~
3 ~~processing of the consolidated permit for the repair or~~
4 ~~maintenance project and shall coordinate the procedural aspects~~
5 ~~of the processing consistent with existing laws governing the~~
6 ~~consolidated permit agency and participating permit agencies,~~
7 ~~and with the procedures agreed to by those agencies in~~
8 ~~accordance with Section 57053.1. In carrying out those~~
9 ~~responsibilities, the consolidated permit agency shall ensure that~~
10 ~~consolidated permit applicant has all of the information needed to~~
11 ~~apply for all of the component repair or maintenance project~~
12 ~~permits that are incorporated in the consolidated permit,~~
13 ~~coordinate the review of those repair or maintenance project~~
14 ~~permits by the respective participating permit agencies, ensure~~
15 ~~that timely permit decisions are made by the participating permit~~
16 ~~agencies, and assist in resolving any conflict or inconsistency~~
17 ~~among the repair or maintenance project permit requirements and~~
18 ~~conditions that are to be imposed by the participating permit~~
19 ~~agencies with regard to the repair or maintenance project.~~

20 ~~(e) This division shall not be construed to limit or abridge the~~
21 ~~authority or responsibilities of any participating permit agency~~
22 ~~pursuant to the law that authorizes or requires the agency to issue~~
23 ~~a permit for a repair or maintenance project or to grant any~~
24 ~~agency any new powers independent of those granted by other~~
25 ~~laws. Each participating permit agency shall retain its authority~~
26 ~~to make all decisions on all nonprocedural matters with regard to~~
27 ~~the respective component repair or maintenance project permit~~
28 ~~that is within the scope of its authority or responsibility,~~
29 ~~including, but not limited to, the determination of permit~~
30 ~~application completeness, permit approval or approval with~~
31 ~~conditions, or permit denial. The consolidated permit agency~~
32 ~~may not substitute its judgment for that of a participating permit~~
33 ~~agency on any such nonprocedural matters.~~